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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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<p>STACEY D. FLOYD and STICKY STICKS, LLC,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>LAMRITE WEST, INC.; DARICE, INC.; and MICHAELS STORES, INC.,</p> <p style="text-align: center;">Defendants.</p>	<p>MEMORANDUM DECISION AND ORDER DENYING MOTIONS TO RECONSIDER</p>   <p>Case No. 1:20-CV-99 TS</p> <p>District Judge Ted Stewart</p>
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This matter is before the Court on Defendants’ Motion to Reconsider and Plaintiffs’ Motion to Alter or Relieve from Judgment. The parties seek partial reconsideration of the Court’s Memorandum Decision and Order Granting in Part and Denying in Part Defendants’ Motion to Dismiss.

“Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice.”<sup>1</sup> “Thus, a motion for reconsideration is appropriate where the court has misapprehended the facts, a party’s position, or the controlling law. It is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.”<sup>2</sup> Having carefully considered the parties’ arguments, the Court denies their request for reconsideration.

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<sup>1</sup> *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000).

<sup>2</sup> *Id.* (internal citation omitted).

Alternatively, Plaintiffs seek to substitute Michaels Stores, Inc. in the place of Defendant Lamrite West Inc. based on Lamrite West's merger with Michaels Stores Procurement Company, Inc. Plaintiffs rely on Ohio Revised Code § 1701.82(A) and Federal Rule of Civil Procedure 25. The Court declines to substitute Michaels Stores, Inc. for two reasons. First, as Defendants point out, it is far from clear whether Michaels Stores, Inc. is the proper party since Lamrite West's merger was with Michaels Stores Procurement Company, Inc., not Michaels Stores, Inc. Even assuming Michaels Stores, Inc. is the proper party, both the statute and rule are permissive. Those provisions allow for substitution but do not require it. And both provisions specifically allow for the action to continue against the original party. Substitution of Michaels Stores, Inc. will cause undue delay and confusion in this straightforward contract dispute.

It is therefore

ORDERED that the parties' Motions (Docket Nos. 37 and 38) are DENIED. The parties are directed to submit an Attorney Planning Meeting Report and proposed Scheduling Order within fourteen (14) days of this Order.

DATED this 20th day of April, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Ted Stewart", is written over a horizontal line.

Ted Stewart  
United States District Judge